

(g) At the request of the department, the attorney general shall bring and conduct a suit in the name of the state for injunctive relief, to recover a civil penalty, or both.

SECTION 3. (a) The Texas Board of Health shall adopt rules necessary to implement the water saving performance standards established by Chapter 421, Health and Safety Code, as added by this Act, to take effect on January 1, 1992.

(b) The Texas Board of Health shall propose, on or before September 1, 1992, rules necessary to implement the labeling requirements as provided by Chapter 421, Health and Safety Code, as added by this Act, and shall adopt rules necessary to implement the labeling requirements as provided by that chapter to take effect on March 1, 1993.

SECTION 4. (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect September 1, 1991.

(b) Subsection (a), Section 421.002, Health and Safety Code, as added by this Act, takes effect January 1, 1992.

(c) Subsections (a) and (b), Section 421.003, Health and Safety Code, as added by this Act, take effect March 1, 1993.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 4, 1991, by a viva-voce vote; the Senate concurred in House amendments on May 27, 1991, by a viva-voce vote; passed the House, with amendments, on May 24, 1991, by a non-record vote.

Approved June 7, 1991.

Effective September 1, 1991, except as provided by § 4 of this act.

CHAPTER 294

S.B. No. 818

AN ACT

relating to water quality and the establishment of water quality standards and the assessment and management of water quality and establishing the plumbing loan fund.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.0135 to read as follows:

Sec. 26.0135. REGIONAL ASSESSMENT OF WATER QUALITY BY WATERSHED/RIVER BASIN. (a) *The commission shall ensure the comprehensive regional assessment of water quality in each watershed and river basin of the state. In order to conserve public funds and avoid duplication of effort, river authorities shall, to the greatest extent possible and under the supervision of the commission, conduct regional assessments of their own watersheds. The commission, either directly or through cooperative agreements and contracts with local governments, shall conduct regional assessments of watersheds where a river authority is unable to perform an adequate assessment of its own watershed. The assessment must include a review of wastewater discharges, nonpoint source pollution, nutrient loading, toxic materials, biological health of aquatic life, public education and involvement in water quality issues, local and regional pollution prevention efforts, and other factors that affect water quality within the watershed. The assessment shall also review any significant regulatory or enforcement issues affecting the watershed. The assessment required by this section is a continuing duty, and the assessment shall be revised as necessary to show changes in the factors subject to assessment.*

(b) *In order to assist in the coordination and development of assessments and reports required by this section, a river authority shall organize and lead a basin-wide*

steering committee that includes representatives from all appropriate state agencies, political subdivisions, and other governmental bodies with an interest in water quality matters of the watershed or river basin. Each committee member shall help identify significant water quality issues within the basin and shall make available to the river authority all relevant water quality data held by the represented entities. A river authority shall also develop a public input process that provides for meaningful comments and review by private citizens and organizations on each regional assessment and report.

(c) The purpose of the assessment required by this section is not to mandate exhaustive and detailed water quality studies, but rather to identify significant issues affecting water quality within each watershed and river basin of the state and to provide sufficient information for the commission, river authorities, and other governmental bodies to take appropriate corrective action necessary to maintain and improve the quality of the state's water resources. The commission shall establish by rule the level of detail required for each watershed and river basin assessment.

(d) On or before October 1 of each even-numbered year, each river authority shall report in writing to the governor, commission, and Parks and Wildlife Department on the water quality assessment of the authority's watershed, including an identification of any significant regulatory or enforcement issues, and on any actions taken by the authority and other local governments to improve water quality within the authority's watershed. The assessment report must identify each legal, administrative, economic, or other impediment to further water quality efforts by the authority and local governments. The commission shall then prepare a report that summarizes each river authority's assessment report, describes the commission's regional water quality assessment efforts, and lists the commission's past and proposed actions for improving water quality within the watersheds subject to such assessments. The commission shall submit its report, along with the commission's comments and recommendations on regional water quality management, to the governor, the lieutenant governor, and the speaker of the house of representatives on or before December 1 of each even-numbered year.

(e) Each local government within the watershed of a river authority shall cooperate in making the assessment under Subsection (a) of this section and in preparing the report by providing to the river authority all information available to the local government about water quality within the jurisdiction of the local government, including the extraterritorial jurisdiction of a municipality. Nothing in this section shall be construed to limit or increase the authority or obligations of a municipality in regard to water pollution control and abatement programs described by Section 26.177 of this code.

(f) If more than one river authority is located in a watershed, all river authorities within the watershed shall cooperate in making the assessments and preparing the reports.

(g) For purposes of this section, solid waste and solid waste management shall have the same meaning as in Chapter 361, Health and Safety Code. Each river authority and local government is authorized and encouraged, but not required, to manage solid waste and to facilitate and promote programs for the collection and disposal of household consumer and agricultural products which contain hazardous constituents or hazardous substances and which, when disposed of improperly, represent a threat of contamination to the water resources of the state. Such programs may include the establishment of a permanent collection site, mobile collection sites, periodic collection events, or other methods which a river authority or local government may deem effective.

(h) The Texas Water Commission shall apportion, assess, and recover the reasonable costs of administering water quality management programs under this section from all users of water and wastewater permit holders in the watershed according to the records of the commission generally in proportion to their right, through permit or contract, to use water from and discharge wastewater in the watershed. The cost to river authorities and others to conduct regional water quality assessment shall be

subject to prior review and approval by the commission as to methods of allocation and total amount to be recovered. The commission shall adopt rules to supervise and implement the water quality assessment and associated costs. The rules shall ensure that water users and wastewater dischargers do not pay excessive amounts, that a river authority may recover no more than the actual costs of administering the water quality management programs called for in this section, and that no municipality shall be assessed cost for any efforts that duplicate water quality management activities described in Section 26.177 of this chapter.

(i) In this section, "river authority" means:

(1) a river authority as defined by Section 30.003 of this code that includes 10 or more counties; and

(2) any other river authority or special district created under Article III, Section 52, Subsection (b)(1) or (2), or Article XVI, Section 59, of the Texas Constitution that is designated by rule of the commission to comply with this section.

SECTION 2. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.0136 to read as follows:

Sec. 26.0136. REGIONAL WATER QUALITY IMPLEMENTATION. The commission is the agency with primary responsibility for implementation of regional water quality management functions, including enforcement actions, within the state. The commission by rule shall coordinate the water quality responsibilities of river authorities within each watershed and shall, where appropriate, delegate water quality functions to local governments under Section 26.175 of this code. Nothing in this section is intended to enlarge, diminish, or supersede the water quality powers, including enforcement authority, authorized by law for river authorities, the State Soil and Water Conservation Board, and local governments. For purposes of this section, river authority shall have the same meaning as that contained in Section 26.0135(i) of this code.

SECTION 3. Section 26.023, Water Code, is amended to read as follows:

Sec. 26.023. WATER QUALITY STANDARDS. The commission by rule shall set water quality standards for the water in the state and may amend the standards from time to time. The commission has the sole and exclusive authority to set water quality standards for all water in the state. The commission shall consider the existence and effects of nonpoint source pollution, toxic materials, and nutrient loading in developing water quality standards and related waste load models for water quality.

SECTION 4. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.0285 to read as follows:

Sec. 26.0285. EXPIRATION OF PERMITS WITHIN SAME WATERSHED. The commission shall, to the greatest extent practicable, require that all permits for the discharge of waste within a single watershed or within a region of a single watershed contain the same expiration date. The commission shall adopt and implement procedures for the simultaneous review and renewal of all those permits within a watershed or region of a watershed. The purpose of the review is to require comprehensive evaluation of the combined effects of permitted discharges on water quality within the watershed and to facilitate the receipt of information from the public and other entities affected by those discharges.

SECTION 5. Subchapter E, Chapter 26, Water Code, is amended by adding Section 26.178 to read as follows:

Sec. 26.178. FINANCIAL ASSISTANCE DEPENDENT ON WATER QUALITY PROGRAMS. All financial assistance from the board to a city having a population of 5,000 or more inhabitants shall be conditioned on the city submitting to the commission for review and in accordance with rules and submission schedules promulgated by the commission a water pollution control and abatement program as required by Section 26.177 of this code. The board may award grants from the research and planning fund of the water assistance fund to river authorities seeking such funds for purposes of performing regional water quality assessments described in Section 26.0135 of this code.

SECTION 6. Chapter 15, Water Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. PLUMBING IMPROVEMENT LOANS

Sec. 15.731. DEFINITIONS. *In this subchapter:*

- (1) "Fund" means the plumbing loan fund.
- (2) "Plumbing assistance loan" means a loan provided by the board to a political subdivision for the political subdivision's plumbing improvement loan program.
- (3) "Plumbing improvement loan" means a loan provided by a political subdivision to an individual under this subchapter.
- (4) "Political subdivision" means a county, a municipality, a nonprofit member-owned, member-controlled water supply corporation organized and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes), or a district or authority created and operating under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.
- (5) "Water conservation" has the meaning assigned by Section 17.921 of this code.

Sec. 15.732. PLUMBING LOAN FUND. (a) The plumbing loan fund is created.

(b) The fund is held separately from other funds outside the state treasury. The board shall keep and maintain the fund and any accounts established in the fund.

(c) At the direction of the board, the fund or accounts in the fund may be kept and held in escrow and in trust by the state treasurer for and on behalf of the board. If the fund or accounts in the fund are held in escrow and in trust by the state treasurer, the fund or accounts may be used only as provided by this subchapter and, pending their use, shall be invested in authorized investments as provided by any order, resolution, or rule of the board.

(d) Legal title to money and investments in the fund is in the board unless or until paid out as provided by this subchapter or rules of the board.

(e) The state treasurer, as custodian, shall administer the funds strictly and solely as provided by this subchapter and in the orders, resolutions, and rules of the board, and the state shall take no action with respect to the fund other than that specified in this subchapter, an agreement made with the Environmental Protection Agency or another federal agency, applicable federal requirements, and the rules of the board.

Sec. 15.733. ADMINISTRATION AND OPERATION OF FUND. (a) The board shall administer the fund in accordance with state law, rules of the board, and any federal requirements imposed because of a grant of money to the fund by an agency of the federal government.

(b) The board may execute agreements with the Environmental Protection Agency or any other federal agency to establish and administer the fund and may discharge the duties and responsibilities required for the administration of the fund.

(c) The fund consists of money derived from federal grants, from earnings on the investment of money credited to the fund, and, at the board's discretion, from any other available source.

(d) The board shall deposit money received for repayment of a plumbing assistance loan made to a political subdivision in the fund.

(e) At the direction of the governor, any money in the fund may be transferred to the state water pollution control revolving fund under Subchapter J of this chapter.

(f) The fund remains available in perpetuity for providing loans under this subchapter, except to the extent that the fund may be reduced or eliminated as provided by this subchapter.

Sec. 15.734. USE OF FUND. The board may use money in the fund, unless prohibited by an agreement made with a federal agency under this subchapter, to:

- (1) make a plumbing assistance loan;

(2) administer the fund; and

(3) grant or lend money to a political subdivision to defray the political subdivision's expenses incurred in administering a plumbing improvement loan program.

Sec. 15.735. APPLICATION SUBMISSION AND APPROVAL. (a) A political subdivision located in the county of Brewster, Cameron, El Paso, Hidalgo, Hudspeth, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, or Zapata in which residences do not have water or wastewater facilities that meet minimum standards established by the Texas Department of Health or the Texas Water Commission or in any other area designated by federal law to benefit from the fund may submit to the board an application for a plumbing assistance loan in accordance with rules adopted by the board. The application must include:

(1) the legal name of the political subdivision and a citation to the law under which it operates and was created;

(2) a description of the water conservation methods to be used in the provision of water and wastewater service in the area the political subdivision proposes to affect by its plumbing improvement loan program;

(3) a map showing the location of the area the political subdivision proposes to affect by its plumbing improvement loan program;

(4) a description of the subdivision's proposed plumbing improvement loan program; and

(5) other information as required by board rule.

(b) The board may approve a plumbing assistance loan to a political subdivision only if the political subdivision is in a county that has adopted the model rules developed under Section 16.343 of this code. The board may approve a plumbing assistance loan to a municipality only if the municipality has adopted the model rules developed under Section 16.343 of this code.

(c) The board may approve a plumbing assistance loan to a political subdivision only if the political subdivision is, or is in an area within the jurisdiction of, an authorized agent of the Texas Department of Health under Subchapter C, Chapter 366, Health and Safety Code.

(d) The board may not approve an application for a plumbing assistance loan to a political subdivision unless the board finds that the political subdivision is financially capable of managing a plumbing improvement loan program and that the public interest will be served by the plumbing assistance loan.

(e) The board shall set interest rates to be charged to political subdivisions on plumbing assistance loans.

Sec. 15.736. POLITICAL SUBDIVISION PLUMBING IMPROVEMENT LOAN PROGRAM ADMINISTRATION; PLUMBING ASSISTANCE LOAN REPAYMENT. (a) A political subdivision that receives a plumbing assistance loan shall establish and administer a program to make plumbing improvement loans to individuals at an interest rate lower than the current market rate, including charging no interest.

(b) A political subdivision may use the proceeds from a plumbing assistance loan to make a plumbing improvement loan to be used to pay:

(1) costs to connect a residence to a water distribution system;

(2) costs to provide yard service connections;

(3) costs to provide a residence with indoor plumbing facilities and fixtures;

(4) costs of connecting a residence to a sewer collection system or of providing a residence with a suitable on-site wastewater disposal system for the residence to meet applicable county or municipal code requirements;

(5) costs of building improvements or correction of building deficiencies necessary to allow plumbing to be installed in a residence;

(6) necessary connection fees and permit fees; or

(7) necessary costs of design related to plumbing improvements.

(c) The political subdivision shall repay its plumbing assistance loan from the money it receives as repayment of plumbing improvement loans it has made. To the extent the political subdivision is unable to collect the payments on its plumbing improvement loans made from the proceeds of a plumbing assistance loan, the political subdivision is not obligated to repay a plumbing assistance loan.

(d) A political subdivision shall use all reasonable means to collect payments on plumbing improvement loans. The board may bring a mandamus action in a district court in Travis County or may use any other legal means to compel a political subdivision to take action to collect plumbing improvement loan payments.

Sec. 15.737. RULES. The board may adopt rules necessary to carry out this subchapter.

SECTION 7. The Texas Water Commission and Texas Water Development Board shall adopt rules within 180 days after the effective date of this Act to carry out the water quality protection purposes required of those agencies by this Act.

SECTION 8. This Act shall be known as the Texas Clean Rivers Act.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 14, 1991: Yeas 31, Nays 0; the Senate concurred in House amendments on May 27, 1991: Yeas 31, Nays 0; passed the House, with amendments, on May 25, 1991: Yeas 106, Nays 24, one present not voting.

Approved June 7, 1991.

Effective June 7, 1991.

CHAPTER 295

S.B. No. 1053

AN ACT

relating to the prevention and remediation of coastal erosion, the protection of coastal resources, the protection and enhancement of the public's common law rights of access to and use of public beaches, and the preservation of sand dunes for storm protection and conservation purposes; providing for civil penalties.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. SHORT TITLE. This Act shall be known as and may be cited as the Coastal Management Plan for Beach Access Preservation and Enhancement, Dune Protection, and Coastal Erosion.

SECTION 2. POLICY. The legislature recognizes that the coast is a fragile, dynamic environment that is constantly changing in reaction to human and natural influences. Sand dunes on the seaward shore of the Gulf of Mexico are an irreplaceable part of that environment and serve a vital function by protecting barrier islands and coastal land from storms and floods. The legislature further recognizes that storms and erosion of beach and bay shorelines can harm the environment, recreation and tourism, agriculture, industry, recreational and commercial fisheries, waterborne transportation, and property interests. The legislature finds it desirable and appropriate to mitigate human impacts on dunes and beach and bay shorelines and minimize damage from coastal storms.

The legislature recognizes this state's longstanding commitment to preserving and enhancing the public's right of access to and use of beaches, which is established under the common law by dedication, prescription, estoppel, and custom. This commitment is fundamental to the continued enjoyment of the beaches by Texans, as well as to the economic development of tourism in the state. Therefore, the legislature finds it